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Discussion on the special theme for the year "Indigenous peoples: development with culture and identity: articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples"

Human rights: Implementation of the United Nations Declaration on the Rights of Indigenous Peoples

Information received from Governments

Spain

Summary

This report contains the replies of the Government of Spain to the questionnaire sent to Member States concerning the recommendations of the Permanent Forum on Indigenous Issues at its eighth session. It describes, in particular, the measures taken by the Government of Spain with regard to the specific recommendations made by the Permanent Forum at its eighth session.

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I. Implementation of the recommendations of the Permanent Forum on Indigenous Issues concerning economic and social development, indigenous women and the Second International Decade of the World's Indigenous People

A. Economic and social development

Paragraph 9

1. With regard to measures undertaken to explore and develop alternative sources of income, reduce the exploitation of natural resources, enhance conservation of biological diversity and establish measures in favour of indigenous peoples in voluntary isolation, with particular attention to the Yasuni-ITT initiative, Spain has pledged $4,000,000 through the UNDP-Spain Millennium Development Goals Achievement Fund for the Conservation and Sustainable Management of the Cultural and Natural Heritage of the Yasuni Biosphere Reserve. Of this amount, the sum of $200,000 is intended for the Yasuni-ITT initiative.

2. Furthermore, in line with the approach adopted in 2007, the Spanish Government, under the Indigenous Programme of the Spanish Agency for International Development Cooperation (AECID), has contributed 200,000 euros in support of the project of the Institute for the Advancement of Social Studies entitled "Impact-oriented strategies for the protection of peoples in isolation and initial contact within the framework of the United Nations", with the aim of developing measures and strategies of protection for peoples in isolation and initial contact as a follow-up to the recommendations of the United Nations General Assembly and Permanent Forum and on the basis of concrete commitments by States for the implementation of protection guidelines and protocols for action.

Paragraph 15

3. The Permanent Forum requests States to ensure that transnational corporations and other business enterprises comply with specific standards contained in the United Nations Declaration on the Rights of Indigenous Peoples and International Labour Organization (ILO) Convention No. 169. The Spanish Government agrees that this is an issue that calls for special attention and, accordingly, under the Indigenous Programme, is seeking to promote a process of dialogue and awareness-raising and thereby to ensure that the rights of indigenous peoples are respected by Spanish business enterprises whose activities have an impact on their territories.

4. In October 2009, in order to associate the AECID technical cooperation services with these efforts, a workshop was held at the Spanish Cooperation Training Centre in Montevideo, Uruguay, on cooperation with indigenous peoples: implementation of ILO Convention No. 169, to provide AECID technical and managerial personnel with the necessary guidelines and methology for effective implementation of the provisions of the Convention.

Paragraph 16

5. With regard to the recommendation by the Permanent Forum that States should ensure that business enterprises comply with relevant laws and standards, Spain is conscious of the difficulties involved in establishing forums for dialogue and

awareness-raising with the private sector. Nevertheless, the Master Plan for Spanish Cooperation 2009-2012 seeks to associate enterprises with international development cooperation by promoting public-private partnerships for development as one of the ways of involving them in cooperation through greater collaboration between them and the public sector. Compliance with national and international standards is promoted through such mechanisms.

Paragraph 19

6. The Spanish Government recognizes the full presence and effective participation of indigenous peoples, as it is urged to do by the Permanent Forum. Accordingly, applying the principles laid down in the Spanish Strategy for Cooperation with Indigenous Peoples (ECEPI), it takes particular account of the principle of free, prior and informed consent in the development of activities or programmes that may directly or indirectly affect the indigenous people. Development cooperation project officers are therefore expected to be in constant contact with the main indigenous organizations in each country, creating opportunities for indigenous leaders and representatives to express their views on projects to be developed in their territories or in which they are the beneficiary population.

7. The aim is to put in place tools and mechanisms whereby indigenous peoples can exercise these rights of participation, consultation and consent.

8. Furthermore, as an example of dialogue and participation by indigenous peoples in development activities financed by the Spanish Government, mention should be made of the support in the amount of 250,000 euros provided for the project entitled "Strengthening of indigenous communication in Latin America 2009-2011", proposed and developed by the Latin American Council on Indigenous Peoples' Film and Video (CLACPI). The general aim of the project is to strengthen indigenous communication in Latin America through various initiatives proposed by CLACPI relating to dissemination, training, gender issues, exchange, discussion and coordination, with a view to enhancing and highlighting the modes of social organization of indigenous peoples in the region.

Paragraph 30

9. With regard to the recommendation that States, with the effective participation of indigenous peoples, address the concomitant loss of community citizenship and human rights when indigenous peoples are forced to migrate or are displaced, it should be recalled that Spain is a State with no indigenous people living in its national territory. Nevertheless, through the publication reported to the Permanent Forum, in 2009, entitled *La ratificación del Convenio No. 169, Relexiones en torno a sus implicaciones*, the AECID Indigenous Programme has identified situations in which a country like Spain has a direct relationship with indigenous peoples. Notable among these is that resulting from the immigration to our country in recent decades of indigenous persons, who need to be given the possibility of promoting and protecting their culture.

10. Our Government is, however, aware of the need to give special attention to indigenous men and women who have migrated to cities since, in so doing, they usually leave behind the traditional livelihoods that ensured their survival. As it is difficult to adapt traditional subsistence practices to an urban environment, specific

policies must be put in place to enable indigenous men and women to cope with the new situation, avoid being marginalized and find new livelihoods, without having for that reason to renounce their indigenous identity. In situations where urban indigenous people are already integrated into the urban economy, the Spanish Government will seek through its action to promote their participation in accordance with their own development models.

B. Indigenous women

Paragraph 31

11. The Permanent Forum recommends that States and the United Nations system ensure the inclusion of the priorities and demands of indigenous women. In that regard, it should be noted that the gender in development strategy adopted in the context of Spanish cooperation advocates mainstreaming gender as a cross-cutting priority. This requires taking into account the possible impact on gender of any actions planned at all levels and in all areas of cooperation. Thus, the concerns and experiences of both women and men are taken into account in developing, implementing, following up on and assessing political, economic and social policies and programmes, so as to ensure that they equally benefit.

12. As explained at other sessions, the Spanish Strategy for Cooperation with Indigenous Peoples provides for various strategic approaches and priority activities that specifically support indigenous women's organizations in communities and the full empowerment of indigenous women. The Strategy also provides for the implementation of policies in support of indigenous women in terms of organization; sex education, sexual and reproductive health, measures to combat sexual violence, finance and any other areas relevant to overcoming inequality in rights. Therefore, all development-related activities financed by the Spanish Government targeting indigenous peoples must include a gender perspective that will allow indigenous women to participate fully.

Paragraph 33

13. This Government takes into account the recommendation of the Permanent Forum and will endeavour to conduct assessments of the extent to which it has advanced the previous recommendations of the Forum on indigenous women through the development projects it has financed.

C. Second International Decade of the World's Indigenous People

Paragraph 36

14. With respect to the recommendation that States should support the Trust Fund on Indigenous Issues, Spain is taking the necessary steps in order to make a contribution under the AECID Indigenous Fund.

15. Regarding the Permanent Forum's recommendation that States apply the rights affirmed in the United Nations Declaration on the Rights of Indigenous Peoples, it should be noted that Spain has endorsed the universal framework of minimum standards for the survival, dignity and well-being of indigenous peoples, as set forth in the Declaration. That framework has been incorporated into the Spanish Strategy

for Cooperation with Indigenous Peoples and the Master Plan for Spanish Cooperation 2009-2012, both of which have adopted the following as guiding principles for Spanish cooperation activities affecting indigenous peoples:

- The right to free, prior and informed consent;
- Adoption of a basic focus on processes and on the recognition of rights;
- Self-identification as the primary criterion for the identification of indigenous peoples;
- Recognition of links between the identity, culture and world view of indigenous peoples and effective control of their lands and territories;
- The right of indigenous peoples to self-development.

II. Follow-up to the recommendations of the Permanent Forum on the implementation of the United Nations Declaration on the Rights of Indigenous Peoples, and on dialogue with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and other special rapporteurs

Paragraphs 81 and 82

16. The Permanent Forum recommends that States include adequate information on the implementation of the Declaration in their core reports to the human rights treaty bodies. It also recommends that the relevant treaty bodies take into account the Declaration and urges States to include information regarding its implementation in their reports to the universal periodic review of the Human Rights Council. While Spain is particularly active in terms of development cooperation with and promoting the international visibility of indigenous peoples, there is no indigenous Spanish population as such. Therefore, the principles set forth in the Declaration cannot be implemented within the national territory, nor can they be included in reports to treaty bodies or to the universal periodic review.

17. However, it is true that as a result of migration, members of various indigenous peoples have settled in Spain. Efforts will be made to include information on their situation in forthcoming reports to be submitted by Spain.

Paragraph 83

18. Pursuant to the recommendation by the Permanent Forum that States should establish, where it does not already exist, a national dialogue with indigenous peoples on human rights, based on the Declaration, the Spanish Government provided support in the amount of 100,000 euros for the El Salvador Office of the Human Rights Ombudsman project, entitled "Strengthening of the Permanent Committee on the Rights of Indigenous Peoples of the Office of the Human Rights Ombudsman". The aim of this project is to strengthen organizations for promotion and protection of indigenous peoples' rights in El Salvador and to promote their participation in political activities and their involvement in pursuing efforts to ensure recognition of their rights.

19. Similarly, Spain made a contribution of 120,000 euros in support of the Fray Bartolomé de las Casas Centre for Human Rights proposal entitled "Capacity-building for the defence and promotion of the human rights of indigenous peoples in Chiapas (Mexico)". The Centre won the eighteenth Bartolomé de las Casas Prize, awarded by the Spanish Secretariat of State for International Cooperation and Casa de América.

Paragraph 86

20. In view of the Permanent Forum's recommendation that States support the creation of indigenous language and cultural studies centres in universities, Spain has, under AECID Indigenous Programme of the Spanish Agency for International Development Cooperation consolidated its support for the Educational Programme on the Human Rights of Latin American Indigenous Peoples, sponsored by the University of Deusto in conjunction with the Office of the United Nations High Commissioner for Human Rights. The programme, which is offered in Bilbao, Spain and Geneva, Switzerland, affords indigenous men and women the opportunity to learn about international human rights in general and indigenous rights in particular, in order to assist their organizations and communities in the protection and promotion of their peoples' human rights.

21. Also worth noting is Spain's contribution of 145,000 euros in support of the training programme offered by the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean. That support is provided through the implementation of an advanced course on indigenous peoples, human rights, governance and international cooperation, for indigenous professionals and leaders to be offered by Carlos III University of Madrid. The course provides a comprehensive, quality education that will prepare graduates to participate in negotiations for indigenous rights at the local, national and international levels and to manage development projects in their communities. This interdisciplinary training programme provides both theoretical and practical instruction based on a multicultural approach covering the whole of Ibero-America.

Paragraph 88

22. Regarding the recommendation that all States apply the principles of general comment No. 11 (2009) of the Committee on the Rights of the Child, on indigenous children and their rights under the Convention on the Rights of the Child, it should be noted that Spain has financed and actively participated in organizing — together with, inter alia, the ILO International Programme on the Elimination of Child Labour (IPEC) and the United Nations Children's Fund (UNICEF) Regional Programme on the Rights of Indigenous Children and Youth in Latin America — a Latin American meeting of indigenous peoples and governments to discuss an approach to effective protection of the rights of indigenous boys, girls and adolescents involved in child labour, with a view to its abolishment, which was held at the AECID Training Centre in Cartagena, Colombia, from 8 to 10 March 2010.

Paragraph 94

23. With regard to the Permanent Forum's mission to Bolivia and Paraguay to study the situation of forced labour of Guarani communities, Spain wishes to congratulate the members of the Permanent Forum for their work and to recall its

support to that mission by helping to defray part of the travel costs of Bartolomé Clavero, one of the Forum's independent experts.

III. Cultural development and identity

24. The Spanish Strategy for Cooperation with Indigenous Peoples recognizes that their survival is attributable to the fact that their members have a shared sense of identity, reflected in the will to remain a part of their respective communities and to preserve their traditional lifestyles and ultimately their own cultures. Cultures, being a set of processes and mechanisms common to the human species are dynamic, take in new ways of doing things — whether native or foreign — and cast off others, in a constant process of adaptation to the environment. When these processes occur in conditions of freedom and respect, they result in a strengthened and revitalized culture.

25. In this connection, our Government draws attention, first, to its funding of the Third Latin American Meeting of Local Governments in Indigenous Territories: Tekohäre, held in Asunción, Paraguay, from 23 to 26 November 2009. That meeting provided an opportunity for institutions to exchange information on local and national management experience which were instrumental in promoting the development with identity of the indigenous Latin American peoples in their own territories.

26. Attention is also drawn to the Ninth General Assembly of the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean, which will be held in Madrid on 9 and 10 September 2010. It is an honour for our country to host this event because it will familiarize Spanish society with the main problems currently facing indigenous peoples and will provide a forum for dialogue with the European donor agencies and others engaged in cooperation activities.

IV. Difficulties in the implementation of the recommendations of the Permanent Forum

27. It can sometimes be difficult to implement the recommendations of the Permanent Forum when it comes to executing development projects in conjunction with indigenous organizations in countries whose official policies have a different focus in terms of giving priority to geographical areas or specific areas of activity. Consequently, one of the salient features of the Spanish Government's policy on cooperation with indigenous peoples is to ensure a dual give-and-take with our partner countries: first, with the government institutions responsible for implementing public policy in areas relating to indigenous peoples; secondly, and on an equal footing, with the associations and organizations that are most representative of the indigenous movement.

V. Factors facilitating the implementation of the recommendations of the Permanent Forum

28. In the case of Spain, the fact of having an ad hoc frame of reference such as the Spanish Strategy for Cooperation with Indigenous Peoples allows its action on

behalf of indigenous peoples to be consistent both with the international normative framework constituted by the United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, and with the general principles underlying Spain's international cooperation activities.

VI. Specific policies and strategies to address the needs of indigenous peoples

29. In 2007, the Spanish Government adopted and announced the new Spanish Strategy for Cooperation with Indigenous Peoples, which reflects Spain's commitment to promoting high-quality cooperation that meets the needs and requirements of indigenous peoples.

30. In addition, the Third Master Plan for Spanish Cooperation 2009-2012 makes cooperation with indigenous peoples a multisectoral priority.

VII. Specialized technical unit for indigenous issues

31. The Government has a specialized technical unit whose work is to plan, coordinate, execute and ensure follow-up to all Spanish cooperation activities targeted in whole or in part at indigenous peoples. This unit — the Indigenous Programme — forms part of AECID, itself part of the Ministry of Foreign Affairs and Cooperation. Its address is as follows:

Programa Indígena
Agencia Española de Cooperación Internacional para el Desarrollo (AECID)
Avenida de Reyes Católicos, No. 4
28040 Madrid
http://www.aecid.es/indigena.

VIII. Training on indigenous issues for public officials

32. The Agency's Indigenous Programme organizes participatory annual training seminars designed to train technical staff working in the Spanish cooperation programme. For example, in 2009 the Indigenous Programme conducted a workshop with experts and senior officials from our technical cooperation offices on the theme: "Development cooperation with indigenous peoples: the implementation of ILO Convention No. 169". The workshop facilitated joint consideration of issues and an exchange of experience and best practices to promote the mainstreaming of indigenous issues as a cross-cutting element in all the programmes and activities of the Spanish cooperation programme, which patterns its fundamental principles and activities on the provisions of ILO Convention No. 169.

IX. Implementation of the United Nations Declaration on the Rights of Indigenous Peoples

33. Through its action in various areas, in particular development cooperation, the Government of Spain seeks to observe the provisions of the United Nations Declaration on the Rights of Indigenous Peoples. Accordingly, in 2009 it allocated 160,000 euros to support a project of the Almáciga Intercultural Working Group entitled "Promoting full and effective participation by representatives of indigenous peoples in United Nations activities relating to human rights and the environment (article 18 of the United Nations Declaration on the Rights of Indigenous Peoples)".

34. Lastly, another specific activity supported by the Spanish Government in application of the Declaration is the Programme for the implementation of the rights of indigenous peoples, which received 132,000 euros in funding, and encompasses various activities all of which are intended to promote the implementation of the rights of indigenous peoples set out in the United Nations Declaration.